

[Cite as *Simmons v. Ohio Dept. of Transp., Dist. 11, 2008-Ohio-5787.*]

Court of Claims of Ohio

The Ohio Judicial Center
65 South Front Street, Third Floor
Columbus, OH 43215
614.387.9800 or 1.800.824.8263
www.cco.state.oh.us

NICOLE SIMMONS

Plaintiff

v.

OHIO DEPARTMENT OF
TRANSPORTATION, DISTRICT 11

Defendant

Case No. 2008-06164-AD

Deputy Clerk Daniel R. Borchert

ENTRY OF DISMISSAL

[Cite as *Simmons v. Ohio Dept. of Transp., Dist. 11, 2008-Ohio-5787.*]

{¶ 1} On May 16, 2008, plaintiff, Nicole Simmons, filed a complaint against defendant, Department of Transportation. Plaintiff alleges on February 28, 2008 at approximately 8:30 a.m., “[w]hile driving to Kent State on St. Rt. 45 in Lisbon, I hit a very large pothole.” As the result of striking the pothole plaintiff asserts her vehicle sustained damage in the amount of \$576.82. Plaintiff attributes her resulting damage as the result of defendant’s negligence in maintaining the roadway. Plaintiff submitted the filing fee with the complaint.

{¶ 2} On June 13, 2008, defendant filed a motion to dismiss. In support of the motion to dismiss, defendant stated in pertinent part:

{¶ 3} “Nichole Simmons allegedly sustained property damage to her vehicle while driving northbound on SR 45 and SR 164 near a Marathon Station, when she hit a very large pothole. Particularly, plaintiff incurred automotive repair costs as a result of hitting a pothole and seeks reimbursement of such costs from defendant.

{¶ 4} “Defendant has performed an investigation of this site and this intersection at SR 45 and SR 164 and it falls under the maintenance jurisdiction of the Village of Lisbon. (See Attached Map) As such, this section of roadway is not within the maintenance jurisdiction of the defendant.”

{¶ 5} Plaintiff has not responded to defendant’s motion to dismiss. The site of the damage-causing incident was located in the Village of Lisbon.

{¶ 6} Ohio Revised Code Section 5501.31 in pertinent part states:

{¶ 7} “Except in the case of maintaining, repairing, erecting traffic signs on, or pavement marking of state highways within villages, which is mandatory as required by section 5521.01 of the Revised Code, and except as provided in section 5501.49 of the Revised Code, no duty of constructing reconstructing, widening, resurfacing, maintaining, or repairing state highways within municipal corporations, or the bridges and culverts thereon, shall attach to or rest upon the director . . .”

{¶ 8} The site of the damage-causing incident was not the maintenance responsibility of defendant. Consequently, plaintiff’s claim is dismissed.

{¶ 9} Having considered all the evidence in the claim file and, for the reasons set forth above, defendant’s motion to dismiss is GRANTED. Plaintiff’s case is

DISMISSED. The court shall absorb the court costs of this case.

DANIEL R. BORCHERT
Deputy Clerk

Entry cc:

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DRB/laa
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